

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0694-01
Bill No.: SJR 17
Subject: Boards, Commissioners, Committees, Councils; Constitutional Amendments;
Governor and Lieutenant Governor; Judges
Type: Original
Date: April 29, 2011

Bill Summary: This proposal modifies the selection process for certain judgeships and the composition of judicial nominating commissions.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue*	\$0 or (More than \$7,000,000)	\$0 or (More than \$7,000,000)	\$0
Total Estimated Net Effect on General Revenue Fund*	\$0 or (More than \$7,000,000)	\$0 or (More than \$7,000,000)	\$0

* If the amendment is put before the voters at a general election, there is no additional cost to the state. However, if a special election is called for this amendment, the state would have to reimburse local political subdivisions for their incurred costs, assumed to be in either in FY 2012 OR FY 2013.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on FTE	0	0	0

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the Governor** state there would be no added cost to their office as a result of the bill. However, if additional duties are placed on the office related to appointments in other TAFP legislation, there may be the need for additional staff resources in future years.

Officials from the **Office of the State Courts Administrator (CTS)** state the proposed constitutional amendment would change the composition of the Appellate Judicial Commission and would remove a member of the Supreme Court from the Commission. On average, the Commission meets three to five times a year. For each meeting, there are administrative duties, such as receiving and processing applications, coordinating schedules of the commissioners, and locating a suitable location for the Commission to meet. Currently, the office of the Chief Justice has absorbed the staffing time required to coordinate the Commission's proceedings. This amendment does not specify an entity responsible for managing the Appellate Judicial Commission meetings. As there is no FTE associated with the Appellate Judicial Commission appropriation, the responsible agency will incur additional staffing time and related costs which are not accounted for in the present iteration of the amendment.

Oversight assumes if the voters adopt the proposal, Office of State Courts Administrator would incur increased costs for the mileage and meals of the commission members, but would be able to absorb the additional costs within current budget appropriations.

Officials from the **Attorney General's Office (AGO)** assume if the legislation passes, the proposal would be submitted to the voters of the state for adoption or rejection. Therefore, the AGO assumes that any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Office of the Secretary of State (SOS)** assume unless a special election is called for the purpose, Joint Resolutions are submitted to a vote of the people at the next general election. If a special election is called to submit a Joint Resolution to a vote of the people, section 115.063.2 RSMo requires the state to pay the costs. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people and Article XII section 2(b) authorizes the governor to call a special election to submit constitutional amendments to a vote of the people.

The Secretary of State's office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided

ASSUMPTION (continued)

with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with \$1.3 million historically appropriated in odd numbered fiscal years and \$100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2011, at the August and November elections, there were 6 statewide Constitutional Amendments or ballot propositions that cost \$1.02 million to publish (an average of \$170,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

SOS also assumes many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the Secretary of State's Office for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what our office can sustain with our core budget. Therefore, we reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Oversight has reflected in this fiscal note, the state potentially reimbursing local political subdivisions the cost of having this joint resolution voted on during a special election in fiscal year 2012 OR in fiscal year 2013. This reflects the decision made by the Joint Committee on Legislative Research, that the cost of the elections should be shown in the fiscal note. The next scheduled general election is in February 2012 (FY 2012). It is assumed the subject within this proposal could be on that ballot; however, it could also be on a special election called for by the Governor. Therefore, Oversight will reflect a potential election cost reimbursement to local political subdivisions in FY 2012 OR in FY 2013.

To estimate the expense the state would incur for reimbursing local political subdivisions for a special election, Oversight requested expense estimates from all election authorities for an election. Eighty-six out of the one hundred fifteen election authorities responded to Oversight's

ASSUMPTION (continued)

request. From these respondents; the total election expense that would have to be reimbursed by the state government is over \$7 million. Therefore, Oversight will reflect a potential cost borne by the state in FY 2012 OR in FY 2013 of over \$7 million for reimbursement to the local political subdivisions. Oversight assumes the Governor could call for a special election to be held prior to November 2012 regarding this joint resolution; however, if a special election is not called, the subject will be voted on at the general election in November, 2012.

<u>FISCAL IMPACT - State Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
GENERAL REVENUE			
<u>Expense</u> - reimbursement of local political subdivisions for special election costs	\$0 or (More than <u>\$7,000,000</u>)	<u>\$0 or (More than \$7,000,000)</u>	<u>\$0</u>
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	\$0 or (More than <u>\$7,000,000</u>)	\$0 or (More than <u>\$7,000,000</u>)	<u>\$0</u>
 <u>FISCAL IMPACT - Local Government</u>	 FY 2012 (10 Mo.)	 FY 2013	 FY 2014
LOCAL POLITICAL SUBDIVISIONS			
<u>Income</u> - cost reimbursement from the State for special election	\$0 or More than \$7,000,000	\$0 or More than \$7,000,000	\$0
 <u>Expense</u> - cost for special election	 \$0 or (More than <u>\$7,000,000</u>)	 <u>\$0 or (More than \$7,000,000)</u>	 <u>\$0</u>
ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This constitutional amendment, if approved by the voters, would modify the selection process for certain judgeships and the composition of the commissions that submit names of prospective judges to the Governor.

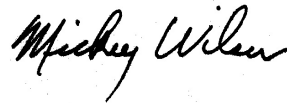
Currently, when there is a vacancy on the Supreme Court, the court of appeals, or the circuit or associate circuit court in St. Louis City, St. Louis County, Jackson County, Greene County, Platte County, or Clay County, a judicial commission gives the Governor a list of three nominees to select from to fill the position. The Governor is required to select one of these nominees within sixty days, or then the commission is required to select the nominee to fill the vacancy. This amendment would increase the number of nominees on the list to four. The Governor would have thirty days to select one of these nominees. If the governor does not select a nominee from this list, the commission is required to submit a second list of nominees. If the Governor does not select a nominee from this second list within thirty days, then the commission is required to select the nominee from the second list to fill the vacancy.

Beginning on the second Tuesday of January 2013, this amendment would also modify the composition of the commissions. The appellate judicial commission would increase from seven to nine members; three attorneys and six individuals who are not attorneys. Each of the circuit judicial commissions would increase from five to seven members; two attorneys and five individuals who are not attorneys. A Supreme Court judge would no longer serve on the appellate judicial commission and the chief judge of the court of appeals district would no longer serve on each of the circuit judicial commissions. The members of the Appellate Judicial Commission first appointed by the Governor after the second Tuesday of January 2013 shall serve four year terms. Upon the expiration of the terms of the current non-attorney members of the Appellate Judicial Commission, the members of the commission that replace these members shall serve a four year term, a two year term, and a four year term.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Secretary of State
Office of the State Courts Administrator
Office of the Governor
Office of the Attorney General

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA
Director
April 29, 2011